

**REMARKS**

Presently, claims 1-3, 5-20 and 22-23 are pending in the specification. Claims 4, 21 and 24 have been canceled. Claims 1, 19 and 22 have been amended. Support for the amendments to independent claims 1, 19 and 22 may be found, for example, at paragraphs 34 and 38 of the specification, as well as in cancelled claims 4, 21 and 24. Accordingly, no new matter has been added by the foregoing amendments.

***Prior Art Rejection – 35 USC §103***

The Examiner has rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,487,721 to Safadi (“Safadi”) in view of U.S. Patent No 5,661,516 to Carles (“Carles”). The Examiner contends that Safadi teaches all aspects of the claimed invention with the exception of receiving and selecting advertisement characteristics which include intended target market characteristics. The Examiner contends, however, that Carles discloses advertisements which include intended target market characteristics. The Examiner concludes that it would have been obvious to one skilled in the art to modify Safadi’s system with advertisements having target market characteristics as disclosed in Carles. Applicants respectfully traverse this rejection.

Safadi discloses inserting commercials into an audiovisual bit stream using cue commands in response to cue tones. In Safadi, “commercial content is partially encoded to allow future encoding (total compression) by varying the quantization parameters. This enables rate adaptation such that the commercial content fits the bandwidth allocated for the program to which the commercial belongs” (column 5, lines 26 – 31). Thus, in Safadi a single advertisement is quantized to fit the bandwidth of the program it is being inserted into

Carles discloses a method of providing advertisements to individual subscribers by tagging commercials with routing information and converter addresses. Carles uses a database of “smart” commercials containing embedded information identifying the categories of recipients for the message. The commercials are inserted into the data stream based on a previously created schedule.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See* MPEP 2143.03. Neither Safadi, Carles nor a combination thereof teaches all elements of independent claim 1 as amended.

Claim 1 recites, “**selecting targeted advertisements for insertion...by comparing the intended target market characteristics to the subscriber characteristics and comparing the avail bandwidth to the minimum bandwidth requirements.**” In contrast, Safadi teaches storing advertisements that are “partially encoded to allow future encoding.” Therefore, Safadi teaches encoding a *preselected* advertisement to fit the “bandwidth allocated for the program to which the advertisement belongs.” In independent claim 1, the advertisement is selected in part based on comparing the available bandwidth to the bandwidth requirements of the advertisement. Thus, neither Safadi or Carles nor a combination thereof teaches the step of “**selecting targeted advertisements for insertion...by comparing the intended target market characteristics to the subscriber characteristics and comparing the avail bandwidth to the minimum bandwidth requirements.**”

The combination of Safadi and Carles also does not teach or suggest, “determining an avail bandwidth and subscriber characteristics for an advertisement opportunity within a program stream,” as recited in independent claim 1. In claim 1, an advertisement opportunity has its own bandwidth and subscriber characteristics that are matched by the inserted advertisement. The Examiner relies on Carles for the teaching of advertisements having target market characteristics. However, Carles teaches creating a schedule of advertisements to be presented to an individually addressable location. Thus, Carles assigns advertisements to the *addressable location* of the subscriber and not based

on determined “subscriber characteristics for an advertisement opportunity within a program stream.” Safadi teaches encoding an advertisement to match the bandwidth of the stream. As such, Safadi does not teach “determining subscriber characteristics for an advertisement opportunity within a program stream.” Therefore, the combination of Safadi and Carles also does not teach or suggest this feature of independent claim 1.

The combination of Safadi and Carles also does not teach or suggest, “receiving at least one request for advertisement presentation, the at least one request including advertisement characteristics...” Both Carles and Safadi teach using databases of advertisements. In Safadi, cue tones and cue commands are used to trigger insertion of advertisements into the stream. Cue tones are messages within the stream that provide the proper location for inserting an advertisement. Similarly, in Carles a schedule is used to determine when to insert the advertisements into the data stream. Thus, both Safadi and Carles require **having pre-selected the advertisement to be presented prior to receiving the advertisement request**. Conversely, claim 1 recites, “receiving at least one request for advertisement presentation,” where that ad request has certain characteristics that are matched to the corresponding ad opportunity. Thus, in claim 1, **the proper advertisement are selected for insertion based on the received request**. Neither Safadi or Carles nor a combination thereof teaches or suggests receiving a request for advertisement presentation.

Accordingly, for at least the reasons discussed above, Applicants respectfully submit that independent claim 1 is allowable over the proposed combination of Safadi and Carles, as such combination does not teach or suggest all of the features of independent claim 1.

Applicants respectfully submit that independent claim 19 is patentable over the prior art at least in part based on reasons similar to those discussed above with respect to independent claim 1. Additionally, Applicants independent claim 19 recites, “determining a set of advertisements that can be inserted into the avail, wherein said determining is based on whether the avail bandwidth satisfies the minimum bandwidth requirements.” As discussed, Safadi teaches quantizing a partially encoded advertisement to fit the

bandwidth of the program stream the advertisement belongs to. Neither Safadi nor Carles teaches determining a **set of advertisements** that can be inserted into the avail, where the determining is based on whether the avail bandwidth satisfies the minimum bandwidth requirements. Accordingly, independent claim 19 is believed to be allowable over the proposed combination of Safadi and Carles.

Applicants respectfully submit that independent claim 22 is patentable over the prior art at least in part based on reasons discussed above with respect to independent claims 1 and 19. Additionally, claim 22 recites, “determining if the minimum acceptable bit rate is greater than or less than the advertisement insertion opportunity bit rate.” Safadi does not teach or suggest such a determination. Safadi actually teaches away from such a determination since the advertisements in Safadi are always partially encoded, thereby requiring further quantization before being placed into the program stream. Accordingly, independent claim 22 is believed to be allowable over the proposed combination of Safadi and Carles

Claims 2 – 3, 5 – 18, 20 and 23 are believed to be allowable at least by their dependency independent claims 1, 19 and 22, respectively. Reconsideration and withdrawal of the Examiner’s rejection over Safadi in view of Carles are respectfully requested.

***Conclusion***

In view of the foregoing amendments and remarks, Applicants respectfully submit that the Examiner's rejection has been overcome, and that the application, including claims 1-3, 5-20 and 22-23, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejection and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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